

Two Thousand and Five  
Councilors M. LaBarge, Bardsley, Richards, and Dostal

2-700 to 2-706  
Create an Agricultural Commission and a Right-to-Farm

## **Section 2 – 700. Purpose and Mission Statement**

Agriculture is an essential and valued activity in Northampton. It provides fresh food, clean air, economic diversity, and open spaces to all the citizens of Northampton.

Due to Northampton's growing desire to protect agricultural land in the community, this ordinance establishes the Agricultural Commission and a Right-to-Farm. The mission of this ordinance is to provide a voice and a network for farmers within Northampton, while, at the same time, to maintain farmland and agricultural-based opportunities in the City for the benefits of its citizens and future generations.

Further, the purpose and intent of this ordinance is to state with emphasis the Right-to-Farm accorded to all citizens of the Commonwealth under Article 97, of the Amendments to the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 111, Section 125A and Chapter 128 Section 1A. We the citizens of Northampton restate and republish these rights pursuant to the City's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This ordinance encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the City of Northampton by allowing agricultural uses and related activities to function with minimal conflict with abutters and City agencies. This ordinance shall apply to all jurisdictional areas within the City.

## **Section 2 – 701. Membership of Agricultural Commission**

- a. Appointing Authority: Committee members shall be appointed by the Mayor and confirmed by the City Council.

- b. Membership:

Members should have the ability to adequately represent farmers and farming in town and should reflect:

- a) Geographic distribution
- b) A cross-section of types of farming town
- c) Large, medium and small sized farms
- d) Have the ability to appoint associate commission members for potential speciality projects

Membership shall include:

1. Four ( 4 ) members whose prime source of income is derived from farming or agricultural-based enterprises.

2. Three ( 3 ) members who have small or medium sized farms, own agricultural land, no more than one representative of an agriculture-related organization, and/or those who have been nominated by ten (10) farmers.

- c. Chair to be elected annually in January by the members
- d. Term of Appointment: Three ( 3 ) members for a term of three years; Two ( 2 ) members for an initial term of two years and Two ( 2 ) members for an initial one year term, and three years thereafter.
- e. Members may or may not be City residents.
- f. A majority of the members are needed to vote.

## **Section 2 – 702. Duties**

Agricultural Commission shall develop a work plan to guide its activities. Such activities include, but are not limited, to the following:

- 1) shall serve as facilitators for encouraging the pursuit of agriculture in Northampton
- 2) shall promote agricultural-based economic opportunities in the City

- 3) shall act as mediators, advocates, educators, and/or negotiators on farming issues
- 4) shall work for preservation of prime agricultural lands
- 5) shall pursue all initiatives appropriate to creating a sustainable agricultural community

## **Section 2 – 703. Definitions**

As deemed by 61A of the General Laws of Massachusetts:

Land shall be deemed to be in agricultural use when primarily and directly used in raising animals, including, but not limited to, dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, bees and fur-bearing animals, for the purpose of selling such animals or a product derived from such animals in the regular course of business; or when primarily and directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals and preparing them or the products derived there from for market.

Land not less than five acres in area shall be deemed to be actively devoted to agricultural or horticultural uses when the gross sales of agricultural, horticultural or agricultural and horticultural products resulting from such uses together with the amount, if any, payable under a soil conservation or pollution abatement program of the federal government or the commonwealth total not less than five hundred dollars per year or when the use of such land is clearly proven to be for the purpose of achieving an annual total of not less than five hundred dollars from such gross sales and program payments within the normal product development period as determined by the farmland valuation advisory commission established pursuant to section eleven of this chapter. In cases where the land is more than five acres in area, the gross sales and program payment standard above set forth shall be increased at the rate of five dollars per acre except in the case of woodland or wetland for which such increase shall be at the rate of fifty cents per acre.

- farming in all its branches and the cultivation and tillage of the soil
- dairying
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities
- growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations
- raising of livestock including horses
- keeping of horses as a commercial enterprise

- keeping and raising of poultry, swine, cattle, exotics (such as emus, ostriches, rheas, llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

“Farming” shall encompass activities including, but not limited to, the following:

- operation and transportation of slow-moving farm equipment over roads within the City
- control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals
- application of manure, fertilizers and pesticides
- conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm
- processing and packaging of the agricultural output of the farm and the operation of a farmer’s market or farm stand including signage thereto
- maintenance, repair, or storage of agricultural equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products
- on-farm relocation of earth and the clearing of ground for farming operations in-line with Federal and State regulations

## **Section 2 - 704. Right-To-Farm Declaration**

The Right-to-Farm is hereby recognized to exist within the City of Northampton. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal activity of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this ordinance are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices.

Notwithstanding any language in this ordinance, Right-To-Farm declaration shall not be deemed as acquiring any interest in land, or as imposing or superseding any land use or environmental regulation, which is properly the subject of state statute, regulation, or local zoning or other ordinance.

## **Section 2 – 705. Resolution of Disputes**

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a complaint to the Agricultural Commission. The filing of the complaint does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Agricultural Commission shall review and facilitate the complaint, and report its recommendations to the referring City authority within an agreed upon time frame.

The Agricultural Commission looks to ease disputes and administer workable solutions to potential farming issues.

## **Section 2 – 706. Severability Clause**

If any part of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this ordinance. The City of Northampton hereby declares the provisions of this ordinance to be severable.

## **Section 2 - 707. Disclosure Notification**

In order to promote harmony between farmers and their new neighbors, the City of Northampton requires landholders and/or their agents (i.e. homeowners and real estate agents) and assigns to provide notice to prospective purchasers and occupants of land located within one-half mile of any active farming operation as follows:

“It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a city where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the City may be impacted by commercial agricultural operations including the ability to access water services for such property under certain circumstances.”

A copy of the disclosure notification shall be given to and signed by the landowner prior to the sale, purchase, exchange or occupancy of such real property. This notification places the burden of awareness upon the landowners surrounding agricultural areas, and not on the farmers of Northampton. A copy of the disclosure notification must be filed with the Agricultural Commission prior to the sale, purchase, exchange or occupancy of such real property.